

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

I.D., and T.D. and A.D.,	:
individually and as parents	:
and next friends of I.D.,	:
Plaintiffs	:
	:
vs.	: CIVIL NO. 1:CV-03-1874
CUMBERLAND VALLEY SCHOOL	:
DISTRICT,	:
Defendant	:

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

We are considering the Plaintiffs' motion in limine to exclude certain testimony on the basis of res judicata, also known as claim preclusion. The Plaintiffs seek to prevent the Defendant, Cumberland Valley School District, "from entering any evidence to challenge whether I.D. was harassed while a student at Cumberland Valley School District, or whether the District took appropriate action to protect a student with a disability[.]" (Doc. 62, Pl. Brief in Support, p. 4).

The Plaintiffs argue that they are entitled to the benefit of res judicata because the Special Education Due Process Hearing Officer and the Education Appeals Panel found that the Defendant had violated the Individuals with Disabilities Education Act (IDEA) and Rehabilitation Act. They contend that since the

District did not appeal these findings to either a state or federal court, as allowed by the IDEA, the decisions of the hearing officers are final and thus entitled to preclusive effect. The District maintains that preclusion is not appropriate because the current civil action and the previous administrative proceedings have different burdens of proof. At the administrative level the District bore the burden of proof, while in the current action the Plaintiffs have that burden.

"Under res judicata, a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." *Allen v. McCurry*, 449 U.S. 90, 94, 101 S. Ct. 411, 414, 66 L. Ed. 2d 308, 313 (1980). Federal Courts must give preclusive effect to a judgement from a state court if the courts of that state would give preclusive effect to the judgment. *Allen*, 449 U.S. at 96, 101 S. Ct. at 415-6, 66 L. Ed. 2d at 314. Pennsylvania courts apply res judicata when the following elements are present: "(1) identity of the thing sued for; (2) identity of the cause of action; (3) identity of persons and parties to the action; [and] (4) identity of the quality in the persons for or against whom the claim is made." *City of Pittsburgh v. Zoning Bd. of Adjustment of City of Pittsburgh*, 522 Pa. 44, 54, 559 A.2d 896, 901 (Pa. 1989); *Schultz v. City of Philadelphia*, 314 Pa.Super. 194, 199, 460 A.2d 833, 835 (Pa.Super. 1983); *Montour School Dist. v. S.T.*, 805 A.2d

29, 40 (Pa.Cmwlth. 2002); *Kellner v. Aetna Cas. & Sur. Co.*, 605 F. Supp. 326, 330 (M.D.Pa. 1984) (Conaboy, J.). Under Pennsylvania law, an administrative decision can have preclusive effect if the agency which issued the decision was "acting in a judicial capacity and resolve[d] disputed issues of fact that the parties had an opportunity to fully litigate." *J.S. v. Bethlehem Area School Dist.*, 794 A.2d 936, 940 (Pa.Cmwlth. 2002).

We conclude that res judicata cannot apply in the instant case because there is no "identity of the thing sued for." At the Special Education Due Process Hearing, the parents sought compensatory education for I.D. (Doc. 41, Certified Admin. Record, Doc. 6, p. 2). In this proceeding, the Plaintiffs are suing for monetary damages. (Doc. 46, Amend. Compl.). As such, the doctrine cannot apply since the Plaintiffs are seeking a different form of relief. Compare *Gow v. Department of Educ.*, 763 A.2d 528, 532 (Pa.Cmwlth. 2000) (finding that res judicata did not apply when the "thing sued for" in the first action was plaintiff's employment while the "thing sued for" in the second action was the plaintiff's certification), with *Schultz*, 314 Pa.Super. at 201, 460 A.2d at 836 (finding "identity of thing sued for" when the relief sought in both cases was monetary compensation).¹

¹ Collateral estoppel, or issue preclusion, is a doctrine related to res judicata. Under issue preclusion,

AND NOW, this 5th day of October, 2005, it is ordered that the Plaintiffs' motion in limine to exclude testimony on the basis of res judicata (doc. 61) is denied.

/s/William W. Caldwell
William W. Caldwell
United States District Judge

"once a court has decided an issue of fact or law necessary to its judgment, that decision may preclude relitigation of the issue in a suit on a different cause of action involving a party to the first case." *Allen*, 449 U.S. at 94, 101 S. Ct. at 415, 66 L. Ed. 2d at 313. While the Plaintiffs have not sought preclusion under this doctrine, we note that Pennsylvania courts appear hesitant to apply offensive collateral estoppel in cases where the burden of proof may differ between the administrative hearing and the civil action. *Toy v. Metropolitan Life Ins. Co.*, 863 A.2d 1, 16 (Pa.Super. 2004).